HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.24045 of 2006

Dated 27th December 2006

Between:

Vellala Cheruvu Gram Panchayat rep by its Sarpanch Smt. Aluri Bharathi, Vellala Cheruvu, Santhamaguluru, Prakasam District.

…….Petitioner.

And

The Chief Executive officer,
Zilla Parishad, Parakasam District at Ongole and others.

……Respondents.

HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.24045 of 2006

O R D E R:

1. Vellala Cheruvu Gram Panchayat, represented by its Sarpanch Smt. Aluri Bharathi, filed the present writ petition for a Writ of Mandamus declaring the action of the respondents 1 to 4 in not preventing the 5th respondent from forming the cement layer unauthorisedly on road between railway track and culvert for a distance of one furlong at Vellalacheruvu village as illegal, irregular, arbitrary and violative of the provisions of the Andhra Pradesh Panchyat Raj Act and Rules framed thereunder and offends Article 14 of Constitution of India and consequently direct the respondents not to form any such cement layer on the road without following due process of law and until protected water scheme is constructed, and to pass such other suitable orders.

2. The 6th respondent was impleaded as party by an order dated

15-12-2006 in W.P.M.P.No.32739 of 2006. Respondents 1 to 4 in the writ petition filed W.V.M.P.No.2577 of 2006 praying to vacate the interim order granted on 22-11-2006 by this Court in W.P.M.P.No.30691 of 2006. Respondents 5 in the writ petition filed W.V.M.P.No.2432 of 2006 to vacate the aforesaid interim order and reply affidavits also filed.

3. It is stated that the writ petitioner was unanimously elected as Sarpanch of Vellacheruvu Gram Panchyat in the recent Garama Panchyat Elections and 5th respondent was a member of Zilla Prasihad territorial constituency in the recently held zilla Parishad elections. It is also stated that the petitioner belongs to Congress party and the 5th respondent is inimically disposed of due to political reasons. It is also further stated that the father-in-law Sri A.V. Chowdary was elected as Upa Sarpanch of petitioner's Gram Panchyat and generously came forward to construct a drinking water tank in about 12.00 cents of land and the entire protected drinking water tank at his own investment and donate for Vellacheruvu village.

4. It is also stated that the protected drinking water tank was constructed about 20 years ago and maintained by the respondents 2 to 4 at Vellacheru village. This tank is not serving the drinking water needs of residents at

large of Vellacheruvu village. The respondents 2 to 4 also noticed the same, but advised that the fresh water tank could be constructed in next summer, as now it is not possible to construct the same due to lying of water on the lands. The existing pipeline is running beneath the surface along zilla Parishad road from tank to High School and therefrom to railway track. The said pipeline was laid about 20 years ago and it was damaged at many places. The aforesaid donor had already taken estimation for changing the damaged pipeline and for replacing new pipeline.

5. It is also further stated that the 5th respondent noticed the said fact of donation and decided to somehow see that the donation should be avoided. The 5th respondent designed an evil idea to somehow see that the pipeline should not be formed through the main Zilla Parishad road in the village and started forming cement road to a distance of one furlong from railway track up to culvert near the house of Paleru Edukondalu. On 16-11-2006, the 5th respondent dumped material such as stone, sand and cement and he brought workers to draw lines for formation of cement road. If he were allowed to form a cement floor on the road, there will not be any possibility to lay pipeline for supply of drinking water.

6. It is stated that the petitioner approached the 5th respondent with regard to dumping material. But he said that he was directed to form road only for one furlong through the respondents 1 to 4 and immediately the petitioner contacted the respondents 1 to 4 who stated that there is no such grant for formation of road. It is further stated that the 5th respondent had decided to damage the pipeline with a malafide intention and several other factual details also had been narrated in Para 7 of the affidavit filed in support of the writ petition.

7. In the counter affidavit filed by respondents 2 to 4, it is averred that the work formation of CC Road from Railway track to Ramalayam in Vellacheruvu village of Santhamagulur mandal with an estimate cost of Rs.10.00 lakhs was sanctioned under ZP General Fund (SC) vide Proceedings No.P2/1635/2005, dated 20-4-2005 and entrusted to the Group Leader, Bhavani DWACRA Group, Vellacheruvu on nomination, but was not entrusted to the 5th respondent as stated by the petitioner. It is needless to say that the said party was impleaded as 6th respondent.

8. It is also further averred in Para 3 of the counter affidavit that PWD Scheme was running smoothly and no new PWS Scheme is proposed by RWS department. It is

also informed by the RWS authorities that the CC road in progress will not cause any damage to the existing pipeline at present and that if any further replacement is required along the above said road, there will not be any problem since sufficient width is available on either side of the CC Road.

9. It is also stated that the 5th respondent is no way concerned to the execution of the CC Road in progress and the same was entrusted to the Group leader, Bhavani DWACRA Group. Further, specific sand is taken that all norms had been followed in execution of the work in question entrusted to the Group Leader, Bhavani DWACRA group, Vellalacheruvu and several other factual details also have been narrated in Paras 4, 5 and 6 of the counter affidavit.

10. In the counter affidavit filed by 5th respondent several of the allegations made had been specifically denied. It is stated that Cement Concrete Road work for Railway track to Ramalayam in Vallalacheruvu village was entrusted to Bhavani DWACRA group of Vallalacheruvu village, under proceedings dated 21-8-2005, which has been supervising the road formation work. Prior to entrustment of work, administrative sanction was obtained vide proceedings No.P2/6542/2004 dated 30-04-2004.

Technical sanction was also obtained from the authorities concerned. The road where CC work is going on, is Zilla Parishad Road. Pursuant to work order, Bhavani DWACRA group commenced road laying work and completed it up to the length of 120 meters. The remaining work of about 250 meters has come to a stand still in view of the interim status quo order passed by this Court. Specific stand is taken that the respondent is no way concerned with laying of CC road and several facts also had been denied.

11. The other allegation that Sri A.V. Chowdhary came forward to construct water tank in 12 cents of land at his own investment also had been denied. The overall appreciation of the stand taken in the counter affidavit filed by R1 to R4 and also R5 is that the respondents are not going to cause any damage to the pipeline at present. However, certain submissions are made that while carrying out the work, it is not possible to carry on the work further, without causing some damage to the pipeline in question. It is made clear that especially in the light of the stand taken in the counter affidavit of R1 to R4, it is made clear that while proceeding with the further execution of the contract work in question, sufficient care to be taken to protect the pipeline and as far as possible not to cause any damage to the existing pipeline. The

specific stand taken by R1 to R4 in this regard is also hereby recorded and in the light of the statement made in the counter affidavit filed by R1 to R4, at present no damage is being caused to the pipeline in question and also in the light of the observations referred to supra, no further positive directions need be issued.

12. Accordingly, the Writ Petition is disposed of with the above observations. No order as to costs.

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(P.S. NARAYANA, J)

Dated 27th December 2006
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